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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,379	10/23/2001	Michael John Bader	2001B095	1300

23455 7590 09/09/2003

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EXAMINER

JACKSON, MONIQUE R

ART UNIT PAPER NUMBER

1773

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No.	Applicant(s)	
	10/001,379	BADER, MICHAEL JOHN	
	Examiner	Art Unit	
	Monique R Jackson	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

1. The amendment filed 6/19/03 has been entered. New claims 11-12 have been added.

Claims 1-12 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer et al (WO99/67094 for which USPN 6,562,478 is the English equivalent.) Fischer et al teach a coextruded film comprising a base layer of polyolefin, preferably at least 50wt% polypropylene with other polyolefins such as polyethylene particularly HDPE; and at least one outer layer, preferably two outer layers on both sides of the base layer, comprising EPB; wherein the base layer may also comprise up to 40wt%, based on the total weight of the base layer, of an inert material such as calcium carbonate to produce microscopic cavities or voids to give the film an opaque or white appearance; and wherein the outer layer(s) may comprise an effective amount of various additives, preferably hydrocarbon resin such as petroleum resins, styrene resins, cyclopentadiene resins and terpene resins in an amount of 1 to 30wt%, preferably from 2 to 10wt% (Abstract; Col. 2, line 15-36; Col. 10, line 65-Col. 11, line 59; Col. 12, line 8-44.) Fischer et al further teach a method of producing the coextruded multilayer film by coextruding

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the layers, casting the coextrusion against a casting roll wherein the outer layer would be against the casting roll, stretching the film in the machine direction and then further stretching in the transverse direction (Col. 13, line 66-Col. 14, line 60.)

5. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Murschall et al (USPN 5,683,802.) Murschall et al teach a biaxially oriented, multilayer, coextruded film comprising a base layer of polyolefin, preferably at least 50wt% polypropylene with other polyolefins such as polyethylene particularly HDPE; and at least one outer layer, preferably two outer layers on both sides of the base layer, comprising a heat sealable polymer such as EP or EPB in an amount from 75wt% or a non-heat-sealable polymer such as propylene polymer; wherein the base layer may also comprise 1 to 25 wt% of vacuole-inducing particles such as calcium carbonate to produce microscopic cavities or voids to give the film an opaque or white appearance; and wherein the film may comprise interlayers of the same materials as described for the base layer, including mixtures with polyethylene, disposed between the base and outer layers; and wherein in addition to an outer layer ceramic additive, the one or more layers may comprise an effective amount of various additives including hydrocarbon resins such as petroleum resins, styrene resins, cyclopentadiene resins and terpene resins in an amount of 1 to 20wt% (Abstract; Col. 4, lines 41-49; Col. 5, lines 5-30; Col. 6, line 15-32; Col. 7, lines 1-47; Col. 8; Col. 9, line 44-Col. 10, line 63.) Murschall et al further teach a method of producing the coextruded multilayer film by coextruding the layers, casting the coextrusion against a casting roll wherein the outer layer would be against the casting roll, stretching the film in the machine direction and then further stretching in the transverse direction (Col. 11, line 13-48; Examples.) With respect to WVTR, porosity and unidirectional tear properties, the Examiner takes the

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position that the invention taught by Murschall et al would inherently possess the instantly claimed properties given that these properties are dependent upon the materials of the film and the method of making the film wherein the film taught by Murschall et al includes the same materials as instantly claimed and is produced by the same method as the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

September 3, 2003


MONIQUE R. JACKSON
PRIMARY EXAMINER